

Honorable Judge Benjamin Settle

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA**

CLYDE RAY SPENCER,

Plaintiff,

v.

JAMES M. PETERS, et al.,

Defendants.

No. C11-5424BHS

[Proposed]

ORDER ON PLAINTIFF'S  
MOTIONS IN LIMINE

THIS MATTER comes before the Court on plaintiff Clyde Ray Spencer's motions in limine (Dkt. 202), and the Court having considered the pleadings filed in support of and in opposition to the motions in limine, and the remainder of the file herein,

IT IS HEREBY ORDERED that the plaintiff's motions in limine are granted, denied, or rulings are reserved as indicated below, and where granted defendants Sharon Krause and Michael Davidson, his witnesses and his counsel are precluded from offering any evidence, testimony, opinions, comments, arguments, statements or questions, directly or indirectly or by inference, on the following topics:

1. Motions to bar the defense from publishing and/or eliciting testimony related to irrelevant and highly prejudicial allegations of unconvicted prior bad acts.

a. Accusations related to Rhonda Short.

☐ GRANTED ☐ DENIED ☐ RESERVED

b. Alleged infidelity.

☐ GRANTED ☐ DENIED ☐ RESERVED

c. Alleged gun confiscation

☐ GRANTED ☐ DENIED ☐ RESERVED

d. Alleged confrontation with Shirley Spencer about guns.

☐ GRANTED ☐ DENIED ☐ RESERVED

e. Alleged lie to superiors at Vancouver Police Department

☐ GRANTED ☐ DENIED ☐ RESERVED

2. Motion to bar the defense from publishing and/or eliciting testimony related to irrelevant, highly prejudicial excerpts in Defendant Krause's reports of interviews with DeAnne and Shirley Spencer.

a. Statements related to quality of Plaintiff's marriages with DeAnne and Shirley.

☐ GRANTED ☐ DENIED ☐ RESERVED

b. Statements related to Plaintiff allegedly having herpes.

☐ GRANTED ☐ DENIED ☐ RESERVED

c. Statements related to Plaintiff's alleged possession of pornography.

☐ GRANTED ☐ DENIED ☐ RESERVED

d. Additional irrelevant and prejudicial statements by DeAnne and Shirley.

☐ GRANTED ☐ DENIED ☐ RESERVED

1 3. Motion to bar the defense from publishing and/or referencing Krause's interview of  
2 Kathryn Roe.

3 [ ] GRANTED [ ] DENIED [ ] RESERVED

4 4. Motion to bar the defense from publishing and/or referencing Defendant Krause's  
5 interview of Phyllis Day.

6 [ ] GRANTED [ ] DENIED [ ] RESERVED

7 5. Motion to bar the defense from publishing and/or referencing Defendant Krause's  
8 interview of Linda Lawrence.

9 [ ] GRANTED [ ] DENIED [ ] RESERVED

10 6. Motion to bar witnesses other than Matthew Hansen from testifying that Hansen has  
11 never "recanted."

12 [ ] GRANTED [ ] DENIED [ ] RESERVED

13 7. Motion to bar Jim Peters from testifying.

14 [ ] GRANTED [ ] DENIED [ ] RESERVED

15 8. Motion to bar any defense witness from offering a personal opinion as to Plaintiff's  
16 guilt.

17 [ ] GRANTED [ ] DENIED [ ] RESERVED

18 9. Motion to bar Defendant Sharon Krause from testifying as an expert in child sex abuse  
19 cases.

20 [ ] GRANTED [ ] DENIED [ ] RESERVED

21 10. Motion to bar any lay or expert testimony that Katie Spencer, Matt Spencer, or Matt  
22 Hansen exhibited behavior characteristics consistent with victims of sexual abuse.

23 [ ] GRANTED [ ] DENIED [ ] RESERVED

1 11. Motion to bar any and all documents and/or testimony referencing the Vancouver Police  
2 Department's internal investigation and/or bases for terminating Plaintiff's  
employment.

3 ☐ GRANTED ☐ DENIED ☐ RESERVED

4  
5 12. Motion to bar the defense from calling James Rulli.

6 ☐ GRANTED ☐ DENIED ☐ RESERVED

7 13. Motion to bar testimony from any witness about what Katie and Matt Spencer allegedly  
8 said during an interview on May 9, 1985 in Sacramento.

9 ☐ GRANTED ☐ DENIED ☐ RESERVED

10 14. Motion to bar any reference or suggestion to witnesses having been former parties  
11 and/or having a financial stake in the outcome in the case.

12 ☐ GRANTED ☐ DENIED ☐ RESERVED

13 15. Motion to bar Rebecca Roe from testifying at trial.

14 ☐ GRANTED ☐ DENIED ☐ RESERVED

15 16. Motion to bar reference to Roe's practice as a plaintiff's attorney and the like.

16 ☐ GRANTED ☐ DENIED ☐ RESERVED

17  
18 17. Motion to bar evidence pertaining to the fact that Defendant Krause reported an affair  
19 between a Sheriff's Deputy and an alleged victim in another case.

20 ☐ GRANTED ☐ DENIED ☐ RESERVED

21 18. Motion to bar Philip Esplin, Ed.D., from testifying at trial.

22 ☐ GRANTED ☐ DENIED ☐ RESERVED

1 19. Motion to bar the use of hearsay statements made by Katie Spencer, Matt Spencer, and  
2 Matt Hansen.

3 ☐ GRANTED ☐ DENIED ☐ RESERVED

4 20. Motion to bar inadmissible testimony from DeAnne Spencer.

5 ☐ GRANTED ☐ DENIED ☐ RESERVED

6 21. Motion to bar DeAnne Spencer from testifying as to the Katie Spencer medical exam.

7 ☐ GRANTED ☐ DENIED ☐ RESERVED

8 22. Motion to bar the defense from referencing Plaintiff's plea as a "Guilty Plea."

9 ☐ GRANTED ☐ DENIED ☐ RESERVED

10 23. Motion to bar transcript of Alford plea hearing (May 16, 1985), sentencing hearing  
11 (May 23, 1985) and evidence/argument that Plaintiff's guilt can be inferred from Alford  
12 plea and sentencing hearings.

13 ☐ GRANTED ☐ DENIED ☐ RESERVED

14 24. Motion to bar witnesses first disclosed in Defendants' pretrial statement.

15 ☐ GRANTED ☐ DENIED ☐ RESERVED

16 25. Motion to bar Leland Davis from testifying at trial.

17 ☐ GRANTED ☐ DENIED ☐ RESERVED

18 26. Motion to bar Thomas Lodge from testifying at trial.

19 ☐ GRANTED ☐ DENIED ☐ RESERVED

20 27. Motion to bar impermissible character evidence.

21 ☐ GRANTED ☐ DENIED ☐ RESERVED

1 IT IS FURTHER ORDERED that defendants' counsel are directed to inform all  
2 witnesses called by defendants of the exclusion or prohibition against testimony on those  
3 subjects on which plaintiff's motions in limine have been granted. Plaintiff Clyde Ray Spencer  
4 shall have a standing objection throughout the trial as to all matters on which plaintiff's  
5 motions in limine were denied.

6  
7 DATED this \_\_\_\_ day of December, 2013.

8  
9  
10 U.S. DISTRICT JUDGE BENJAMIN H. SETTLE

11  
12  
13 Presented by:

14 /s/ Kathleen T. Zellner  
15 KATHLEEN T. ZELLNER, admitted *pro hac vice*  
16 ATTORNEY FOR PLAINTIFF  
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DECLARATION OF SERVICE

I hereby certify that on December 19, 2013, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the attorneys of record as follows:

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/s/ Kathleen T. Zellner  
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